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E.O. 12958: N/A  
TAGS: [PGOV](#) [PHUM](#) [KPAO](#) [ET](#)  
SUBJECT: PRESS FREEDOM: CONTEMPT FOR REPORTING

REF: ADDIS ABABA 2143

11. (U) SUMMARY: On August 6, the Ethiopian Federal High Court found Million Assefa (defense attorney for pop singer Teddy Afro) and Mesfin Negash (editor-in-chief of popular newspaper Addis Neger) guilty of contempt. The court ruled that a recent Addis Neger article, which quoted Million criticizing the court and intending to request a disciplinary review of the court's conduct in the Afro trial, was prejudicial. The court sentenced Mr. Million to one-month and twenty days imprisonment and gave Mr. Mesfin a one-month suspended sentence. According to a prominent attorney with whom we spoke, the judge appears to have overreached his authority in citing Mesfin for contempt. However, there are few checks on a judge's ability to interpret and apply the law. If the matter is not successfully appealed, the effect will be to chill watch-dog activities and future press coverage of judges' actions. The Embassy will continue to follow developments in this case closely and may seek senior level consultations if the courts continue to expand aggressively judicial authority. END SUMMARY.

Background: The Afro Trial  
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12. (U) Defense attorney and Vice President of the Ethiopian Bar Association, Million Assefa, represents pop singer Teddy Afro in an ongoing high profile hit-and-run case before Judge Luel Gebremariam of the Ethiopian Federal High Court. At a recent hearing, Million accused Judge Gebremariam of judicial misconduct and later informed an Addis Neger journalist, on the record, of his intention to seek formal review of Gebremariam's conduct. Addis Neger Editor-in-Chief Mesfin Negash ran a July 26 article that reported Million's statements to the Addis Neger journalist accurately, based on a tape recording of the conversation between Million and the journalist. Addis Neger, a privately-owned Amharic-language weekly is Ethiopia's second largest newspaper by circulation (30,000) and is rising rapidly in popularity. Although the editors of Addis Neger say they aim to be moderate and balanced, the paper is generally critical of the ruling EPRDF party and perceived by the public as pro-opposition.

Guilty of Contempt  
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13. (SBU) On August 4, Mesfin and Million were ordered to appear briefly before Judge Gebremariam. Following a brief hearing, they were detained and spent the night in jail. The next morning, after many delays, both were officially charged with contempt in a 25 minute hearing. In defense, Million's attorney argued that 1) an attorney appearing before the court has the right to request a review of the judge's conduct and 2) Million gave the Addis Neger interview outside of court, so it should not be seen as intimidating the judge or contempt. Million confirmed Addis Neger reported his comments accurately. Mesfin barely spoke. The judge conceded that a disciplinary review filing was legal and that attorneys have some rights to expression, but said that Million's defamatory comments,

and Mesfin's subsequent printing of them, related to a pending matter (Afro's trial) and were thus prejudicial. The judge denied bail and recessed until the following day.

14. (U) On August 5, the judge opened by finding both defendants guilty of contempt. He listed and then rebuked Million's accusations of judicial misconduct, noting that Million would likely lose his appeal. He said Million's accusations were both substantively wrong and procedurally inappropriate (i.e. prejudicial). Million's seven defense lawyers argued for sentencing leniency; Mesfin read a short leniency plea of his own. The judge sentenced Million to one-month and twenty days imprisonment and gave Mesfin a one-month suspended sentence effective for two years. Addis Neger intends to appeal the ruling. The New York-based Committee for the Protection of Journalists criticized the case as "criminalizing independent reporting."

15. (SBU) COMMENT: The contempt hearing focused heavily on rebuking Million's criticisms and conduct, not on Mesfin's acts. This may indicate the judge wished to defend his conduct while targeting Million for sullyng his conduct publicly (they have purported tensions), making Mesfin and Addis Neger only collateral damage. However, according to a prominent attorney with whom we spoke, the judge appears to have overreached his authority in citing Mesfin, who was not a party to the proceedings, for contempt. Still, there are few checks on a judge's ability to interpret and apply the law. If the matter is not successfully appealed, the effect will be to chill watch-dog activities and future press coverage of judges' actions. Moreover, by targeting the press indirectly, the court positioned itself to defend against accusations that it seeks to curb freedom of expression, but also has laid a marker against a

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fast growing political newspaper that criticism of judges, even if accurately reported, will not be tolerated. The result may not only chill the media's coverage of judicial processes, but also impact Addis Neger's political reporting broadly. The Embassy will continue to follow developments in this case closely and may seek senior level consultations if the courts continue to expand aggressively judicial authority. END COMMENT.

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